

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Newport News Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 4:23-cr-42
)	
FRANCISCO OSWALDO ALLEN,)	
)	
Defendant.)	

STATEMENT OF FACTS

By signing below, the parties stipulate that the following facts are true and correct, and that had the matter gone to trial, the United States of America would have proven them beyond a reasonable doubt, by competent and admissible evidence.

1. On or about January 1, 2023, an officer with the Newport News Police Department (NNPD) observed a BMW SUV bearing Virginia license plate UEW8135 driving erratically and speeding on Jefferson Avenue, in the City of Newport News, Virginia. The officer attempted to catch up to the BMW but was unable to keep up, due to traffic conditions.

2. A few minutes later, the NNPD officer observed the same BMW pull into a gas station at the intersection of Buchanan Drive and Jefferson Avenue in Newport News. The officer then observed the BMW stop at a gas pump, and saw the driver throw a beer bottle out of the vehicle.

3. NNPD then made contact with the defendant, FRANCISCO OSWALDO ALLEN, who was identified as the driver and sole occupant of the BMW. The defendant displayed signs of intoxication, and an investigation ensued as to whether the defendant had been driving under the influence of alcohol (DUI). The defendant refused to complete field sobriety tests but asked to take a preliminary breath test, the result of which was a 0.183 BAC.

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4. After the defendant was arrested for DUI, NNPD asked if the defendant had anything on his person, such as drugs or firearms. The defendant advised that there was a firearm in the vehicle, in the glovebox. Later in the encounter, the defendant volunteered to NNPD that the firearm was unloaded.

5. NNPD located a Ruger Model Ruger-57, 5.7x28mm semiautomatic handgun, bearing serial number 642-08852, on the front passenger seat. The firearm contained an unloaded magazine that could accept 20 rounds of ammunition. Officers also found a box of 5.7x28mm ammunition, containing eleven performance rounds, next to the firearm.


6. NNPD ran a criminal history check on the defendant, which revealed a prior felony conviction punishable by imprisonment for a term exceeding one year.

7. The firearm was recovered and field-tested by NNPD, and was later determined by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to be a firearm designed to expel a projectile by the action of an explosive. ATF also concluded that the firearm was not manufactured in the Commonwealth of Virginia, and thus, must have traveled in or affected interstate or foreign commerce if it was received or possessed in the Commonwealth of Virginia.

8. Further investigation revealed that during a previous traffic stop, on November 7, 2022, the defendant admitted to NNPD officers—after having been advised of his rights under *Miranda*—that he has a prior felony conviction.

9. All of these events occurred in the Eastern District of Virginia.

10. The defendant stipulates and agrees that he committed the acts described herein unlawfully, knowingly, and willfully, and without legal justification or excuse with the specific intent to do that which the law forbids, and not by mistake, accident, or any other reason. The defendant further acknowledges that the foregoing statement of facts does not describe all of his

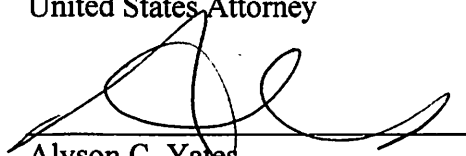

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conduct relating to the offenses charged in this case, nor does it identify all of the persons with whom he may have engaged in illegal activities.


Respectfully Submitted,

Jessica D. Aber
United States Attorney

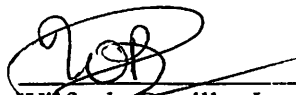
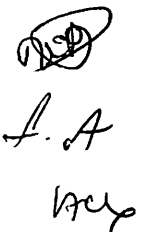
By:


Alyson C. Yates
Special Assistant United States Attorney

After consulting with my attorney, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States could prove these facts beyond a reasonable doubt.


FRANCISCO OSWALDO ALLEN
Defendant

I am counsel for FRANCISCO OSWALDO ALLEN. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.


Wilfredo Bonilla, Jr.
Defense Counsel

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